The amendment (No. 1) was, by leave, withdrawn.

Clause 3 was added to the Bill.

Clauses 4 to 16 were added to the Bill.

Clause 1, the Enacting Formula, the Preamble and the Title were added to the Bill.

SHRI S.R. BOMMAI: I move:

That the Bill be passed.

The question was put and the motion was adopted.

STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE DEPOSITORIES RELATED LAWS (AMENDMENT) ORDINANCE, 1997 (NO. 5 OF 1997) PROMULUGATED BY THE PRESIDENT ON THE 15TH JANUARY, 1997

AND

THE DEPOSITORIES RELATED LAWS (AMENDMENT) BILL, 1997

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): We now take up the Statutory Resolution disapproving of the Depositories related Laws (Amendment) Ordinance, 1997 promulgated by the President on the 15th January, 1997 and the Depositories Related Laws (Amendment) Bill, 1997.

SHRI VEDPRAKASH P. GOYAL (Maharashtra): Madam, I beg to move:

> That this House disapproves of the Depositories Related Laws (Amendment) Ordinance, 1997 (No. 5 of 1997) promulgated by the President on the 15th January, 1997.

Madam, depositories is a world-renowned system of paperless transactions to bring efficiency in stock market operations in transferring stocks. This Bill was passed only a few months back. I fail to understand, firstly, why this Bill itself was so long delayed, it being a universally accepted system working all over the developed world. The hon. Finance Minister having done that, which was a very laudable act, how is it that within a few months, we are faced with an Ordinance? Why could not this little thing be foreseen? It is said now: "Certain lacunae have been brought out by the legal profession and the Depositories Law needs an amendment. It brings back certain provisions of Section 22A of the Securities Contract (Regulation) Act, which was removed for certain reasons." What has happened within such a short time to bring them back?

The latest amendment now includes "any other law for the time being in force." This looks to me to be a very wide clause. It can encompass anything under the Sun. I would like to make sure from the hon. Finance Minister that there will be enough safeguards to ensure that this wide-ranging clause will not be misused. There were many examples earlier of delaying the transfer of shares. I believe that such delays of transfers will be checked by bringing in this amendment.

I only want to add that examples which had come earlier in the share market will be kept in mind and enough safegauard will be brought in so that while ills are removed, more ills do not enter the system.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Resolution moved.

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI P. CHIDAMBARAM): I beg to move:

> That the Bill further to amend the Indian Stamp Act, 1998, the State Bank of India Act, 1959, The Companies Act, 1956, the State Bank of India (Subsidiary Banks) Act, 1959, the Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the

Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and the Depositories Act, 1996, as passed by the Lok Sabha, be taken into consideration.

The Depositories Act, 1996 providing a legal framework for establishment of Depositories to enable record as well as transfer of ownership of securities through a book entry form was enacted in August, 1996. The first depository, National Securities Depository Limited (NSDL) came into being on November 8, 1996. While NSDL has entered into agreement with a number of companies for de-materialisation of securities, it is not in a position to accept shares of bodies corporate like the Industrial Development Bank of India, the State Bank of India and other public sector banks due to certain lacunae. Besides this, units of Mutual Funds including that of U.T.I. face difficulties in using the depository on account of existing provisions in the Stamp Act, which are also required to be amended to give units of Mutual Funds the same stamp duty treatment as that of shares of companies. These lacunae are sought to be removed by the Bill.

The hon. Member, Mr. Goyal, asked why am I bringing back some of the provisions of old Section 22A. Let me affirm that it is my intention to ensure that shares are freely transferable. But, what was noticed is while we threw the bath-water out, we also threw the baby out. We found that if a company perversely refused to pass an order within two months, the transferee has no right of appeal. All that was said was: Now, what happens if the company perversely refuses to pass an order or the company perversely passes an order rejecting the transfer? Therefore, there must be a right of appeal to the transferee. We have provided such a right of appeal in the new sub-section under section III A.

We also found that the company must have a remedy to go to an authority and say: "This transfer is illegal". First the company has to transfer it. There is no escape from the provision. The company has to register a Transfer. after registering a transfer, it must have a right to say that the transfer is illegal because it violates some other law. Therefore, we are providing by saying that if it violates any other law. — it can't be a violation of any company-made rule or company-laid-down norm it must violate a law made by a legislative body, namely, the Parliament of India. if it violates any law, as you know, it is *ab initio* void, and the company would have a right to go to a body and s[illegible]s violates such and such a law an[illegible]ase look into the matter. If a law [illegible]ated, obviously the transfer would have to set aside. So, that is what I am trying to do. I am now enabling the IDBI, the SBI and the public sector banks to join the Depositories. I am exempting the units of the UTI from the stamp duty like other shares are exempt. I am providing a right of appeal to a transferee whose request for a transfer has been perversely rejected. I am providing a forum for a company. It is there. I am making it explicit that you can always go to the CLB and say that the transfer is in violation of law. Beyond that this Ordinance did not do anything.

In fact, when Mr. R.K. Kumar pointed out an anomaly last time in section 372, I said, yes, I see the anomaly, but don't stop the Bill on that ground. Let us pass the Bill.

SHRI R.K. KUMAR (Tamil Nadu): I am going to complete one year here. My experience in Parliament has been blowing a trumpet into a deaf man's ear. This is one of the rare exceptions where you are seeking to correct this anomaly. I wanted to speak and say these things. Now You are correcting it. I am very happy about it. I welcome it.

SHRI P. CHIDAMBARAM: When he pointed out the mistake, I told him that he should not stop the passage of the Bill on that ground and let us pass it and I would correct it as soon as I study it. So, we are correcting the mistake pointed out

by Mr. Kumar. I request the hon. Members to join in passing it.

The questions were proposed.

SHRI ASHOK MITRA (West Bengal): Madam Vice-Chairperson, the Finance Minister is determined to globalise the secondary market. It is an assumption on which he is riding, that the moment you transform the secondary market, the economic growth would be an automatic one. We have to allow five years to each Finance Minister. The previous Finance Minister has now seen some new light and he is making a different kind of noise. I hope that in about 4½ year's time, Mr. Chidambaram would be safely enconced somewhere else and will being repenting about some of things that he rushed to do to the economy. But you know one has to grant him five years. (*..Interruptions)*...After all, one has to grant him five years. So grant him five years and let him do so as much harm as he can to the economy in the course of these five years.

SHRI H. HANUMANTHAPPA (Karnataka): With your support.

SHRI ASHOK MITRA: No. We will oppose and we will support. We will do both. Wherever it is possible to oppose, we will oppose. But we all know that it is not so much the substance of what he wants to do or the manner in which he is doing it through this piece of legislation. We remember that he came to us to convert an Ordinance on the creation of the Depositories in the month of August. An ordinance was issued about five months ago. Then, I remember we asked him, "All right, these five months have gone by you are desperately anxious to pass an Ordinance because without Depositories, life is not worth living. Fine. How many Depositories, have been set up in the course of these five months?" His answer was, "Only one." And that also has not yet started functioning. But why did you rush with an Ordinance like this? You could have taken the time. I am repeating the same complaint this year also.

Now, if you knew that you want to draw into your system of Depositories, the State sector—apart from companies and all that--you mentioned the IDBI, Unit Trust of India, State Bank of India and other public sector depositories. Now, did you think of it, all of a sudden, in the month of February or March or January? If what you throught in January, you were thinking already in August, then, when you were bringing that particular Bill, could not you have incorporated all these things then and there? The reason why I am saying this is, this is not the way to treat Parliament. There is a certain contempt about the parliamentary institution. You think that you can take it for granted; "All right, this is what I want to do. A brilliant idea has occured to me. I want an Ordinance." This is not the way you should deal with the parliamentary institution. How do I know that next year or in about six months' time you will not come with another Ordinance saying that something else has gone wrong? Let us have a little bit of self-control. We are dealing with new things. I quite appreciate that, perhaps, certain things were not thought through properly in the beginning. But then, you could have easily waited for these six weeks or seven weeks and brought up a proper legislation. And our respect for the Ministry of Finance would have gone up. As I said, it appears from the manner you have proceeded that you think that this Parliament is dispensable and it is the Ministry of Finance which only really matters. It is a very sad commentary on the way the Ministry of Finance is functioning. I have nothing more to say, Madam.

SHRI R.K. KUMAR: Madam, I would say only one thing. I have already intervened and said it. I respectfully disagree with Dr. Mitra. You have a child; the child is yet to speak, yet to talk, yet to walk. You cannot say, "Why

did you have the child in the first place?". You cannot go on thinking. We have to start somewhere. *(Interruption).*

SHRI ASHOK MITRA: I would merely suggest, why don't you wait for the symptoms for six months before you start legislating? *(Interruption).*

SHRI R.K. KUMAR: ....where the world is going in the matter of record-keeping. We have had the securities scam in the transfer of shares. *(Interruption).* It is all right. What is wrong if he comes with another Ordinance to set right mistakes? I am very happy, Dr. Mitra. I was thoroughly disappointed for one year. I was coming to the sad conclusion that speaking in Parliament was like blowing a trumpet into the ears of a deaf man. Here, I have a very sharp ear. When I point out something, he corrects it immediately, within six weeks. What is wrong in that? *(Interruption).*

SHRI ASHOK MITRA: Mr. Kumar, I went to prison at the age of 14 years in order to free the country. And we told ourselves that there should be a rule of law in this country. *(Interruptions).*

SHRI R.K. KUMAR: I have all the respect....*(Interruption).*

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Kumar, are you addressing each other or are you addressing the Chair? If it is a discussion between you and Mr. Mitra, please carry on. You should address the Chair, not the Member.

SHRI R.K. KUMAR: Madam, I was speaking....

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): You should address the Chair.

SHRI R.K. KUMAR: I was addressing you only, Madam. I was interrupted. So I had to answer. One should not say, "Don't interrupt me when I am interrupting you". This amounts to that.

What I am saying is, this is a good step. The mistakes found have been corrected. And mistakes could be found and could be still corrected in another six months. There is nothing wrong in that. I wholly support this Bill.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): The mover of the resolution, Shri Goyal.

SHRI VEDPRAKASH P. GOYAL: Madam, I do not think I have anything more to add. What has been clarified is good enough. I hope all aspects have now at least been considered. As the gentleman on the other side has said, don't come again within six months with another amendment. Thank you.

SHRI P. CHIDAMBARAM: Madam, let me just take a minute to answer hon. Mr. Ashok Mitra. The Ordinance was made during the time of the previous Government. And the Ordinance was repeated. When I came with the Bill, we thought that all aspects had been taken care of.

We were anxious to start the Depositories. Without the Ordinance, all the preparatory work for a Depository could not have been done. It is not as though I can make a law today and have a Depository tomorrow. I wish you could travel with me to Mumbai. I will take you to Mumbai and show you the enormous amount of preparatory work that has gone into setting up the Depository--the computers that have to be installed, the software that has to be prepared, the connectivity that has to be established. There was an enormous amount of work. I respect you for going to prison at the age of fourteen. But that does not mean you will be an fait with what is required in a modern world to set up a Depository. I was not familiar with it until I visited Mumbai. I think you should go and see the enormous amount of work put in by this band of very dedicated young men and women to set up a Depository. *(Interruptions)*

SHRI ASHOK MITRA: Do you mean to say that this government cannot function without Ordinance?

SHRI P. CHIDAMBARAM: I am

answering you. Kindly be patient. Therefore, the first Ordinance was necessarily made by the previous Government and we continued the Ordinance. We replaced it by a Bill. Then when the Depository began to work, Mr. R.K. Kumar pointed out one mistake and straightway I said: "Yes, I would correct it." Then we found that the IDBI, the SBI and the public sector banks were anxious to join the Depository. But by a very narrow reading of that section--because the word used is 'company'--the Law Ministry said: "Well, 'company' does not include a statutory corporation." I would have taken a larger, liberal interpretation but nobody wants to take a risk in this matter because thousands of shares will be traded and tomorrow, if somebody goes to court and the court sets aside a share transfer, we will look like fools.

The Law Ministry said: "No, the word 'company' has to be considered narrowly. If you want the word 'corporation' to be included, please amend the Act." Then I found that there was a situation--Mr. Goyal's point--where a company could perversely refuse to transfer. So, we had to take care of that situation. So, when we found out of experience that there are situations which have to be taken care of—the Depository has already come into existence on 8th November, and the next Session of Parliament was effectively only the Budget Session--we thought we will pass this Ordinance and go back to Parliament and say: "Yes, we have found out mistakes, we have found out lacunae; therefore, please allow us to replace this Ordinance by a law." I don't see any reason why we should extrapolate from this experience and say that this is contempt of Parliament and we are taking Parliament for a ride. We are doing no such thing. We are acting swiftly. Unfortunately, if we act swiftly, we are blamed. If we do not act swiftly, even then we are blamed. I think this is a completely non-controversial Ordinance. I cannot give a promise that there will be no other mistake. Who knows some ingenious mind will discover a lacuna in this Bill which I have not been able to see or the Law Ministry has not been able to see. *(Interruptions)* Yes, Sir. If any other ingenious mind finds any other lacuna and I need to plug that lacuna, if necessary, I will come with an Ordinance and I will come and explain to the House why I have brought an Ordinance. If the House is in Session, I will come before the House and move a Bill. Why is the President vested with the power of making an Ordinance? It is in order to deal with a situation, which is an emergent situation. I don't think we should get worked up on these matters and say, Ordinance by itself is bad. The Depository is functioning all right. I do not want the functioning to be interrupted. This is a continuity of policy started by the previous Government. I am not doing anything revolutionary. The world over, paperless trading and screen-based trading has come into being. Fifty years after independence we don't have a single Depository. We have set up a Depository now and it is making progress. 17 companies have joined as active participants. More are willing to join. I think we must encourage this to make the market more effieient and I think setting up a Depository was a good step. I would request the hon. Members to kindly pass this Bill.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Vedprakash P. Goyal, are you withdrawing the Statutory Resolution?

SHRI VEDPRAKASH P. GOYAL: Yes, Madam.

THE VICE-CHAIRMAN MISS SAROJ KHAPARDE: Has he leave of the House to withdraw the Statutory Resolution? *(Interruptions)*

SHRI ASHOK MITRA: Madam, I oppose this because if the Minister had expressed some unhappiness with the fact that he had to bring an Ordinance, then I could have gone along with him. But given the attitude of the Minister--he is

saying that he is going to continue with Ordinances-I would oppose it.

The Statutory Resolution was, by leave, withdrawn.

5.00 P.M.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): I shall now put the motion moved by Shri P. Chidambaram to vote. The question is:

That the Bill further to amend the Indian Stamp Act, 1899, the State Bank of India Act, 1955, the Companies Act, 1956, the State Bank of India (Subsidiary Banks) Act, 1959, the Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Banking companies (Acquisition and Transfer of Undertakings) Act, 1980 and the Depositories Act, 1996, as passed by the Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN MISS SAROJ KHAPARDE: We shall now take up clause-by-clause consideration of the Bill.

Clause 2 to 23 were added to the bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. CHIDAMBARAM: Madam, I beg to move:

That the Bill be passed.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN MISS SAROJ KHAPARDE: I adjourn the House till 11.00 A.M. tomorrow.

The House then adjourned at two minutes past five of the clock till eleven of the clock on Tuesday, the 11th March, 1997.